IN THE HIGH COURT OF JUDICATURE,
ANDHRA PRADESH
AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.20306 OF 2004

Dated: February 02, 2007

Between:

N. Savaranna, S/o. Naganna, Occ: Fishing,
Aged about 55 years, R/o. Kondair village,
Itkyal Mandal, Mahaboobnagar District.

... Petitioner

And

The District Collector, Mahaboobnagar District,
Mahaboobnagar, and others.

... Respondents

Order:

This Writ Petition has been filed seeking Mandamus to declare the action of the respondents in not admitting to the petitioner to the fourth respondent-Society as illegal and arbitrary.

2. Petitioner claims to be the owner of land to an extent of Ac.17.10 cents and Ac.7.18 cents in Sy.Nos.604 and 659 respectively of Kondair village, Itkyal Mandal, Mahaboobnagar District. His case is that in view of

construction of Priyadarshini Jurala Project, several private patta lands, including his land, are coming into submergence of one Pedda Cheruvu in Sy.No.656, which is in the area of operation of the fourth respondent-Fishermen Cooperative Society. It is stated that due to overflow of water from the aforesaid project, the tank existing in the village is filled up with water and excess water is flowing into the land of the petitioner making it uncultivable and taking advantage of the same, fourth respondent society is exploiting the fish therein. The grievance of the petitioner is that though he has approached the respondents, including the fourth respondent, seeking admission into the fourth respondent society, no action has been taken either in admitting the petitioner in the said society nor in stopping the fourth respondent society from interfering with the land of the petitioner. At that stage, petitioner has approached this court.

3. Heard learned counsel for the petitioner, learned Government Pleader for Fisheries for respondents 2 and 3 and also the learned counsel appearing for the fourth respondent.

4. Respondents 1 to 3 have filed counter affidavit stating that after the construction of Priyadarshini Jurala Project, the tank water spread area is not changed. It is stated that every year the tank is receiving full water level from the canals of the Project. It is further stated that the fourth respondent-society has taken Oorapedda Cheruvu and Laxmammacheruvu on lease from the Department of

Fisheries to take up fish culture to eke their livelihood. It is also stated that the fourth respondent society has every right to exploit fish irrespective of submergible areas as the tank is a unit and it is not possible to demarcate the submergible area, whether it belongs to the Government or private pattadars.

5. There is no basis for the allegation of the petitioner that the fourth respondent is not admitting the petitioner into the society. There is neither an order passed by the Society nor by the third respondent. Even assuming, for any reason, the fourth respondent society has refused admission of the petitioner into the society, petitioner can always approach the Registrar of Cooperative Societies under Section 19 (2) (a) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'), in which event, the Registrar will examine the application for membership and take steps accordingly. Without any application being filed before the respondents and in the absence of any order passed by the fourth respondent rejecting membership to the petitioner, no direction as sought for can be given in this Writ Petition. If the petitioner's private patta land is submerged in the tank and if he believes that he is eligible to be granted membership in the fourth respondent, it is always open for him to approach the competent authority and on such a request, respondents shall consider the same in accordance with the provisions of the Act and the rules made thereunder and pass appropriate orders.

6. The Writ Petition is accordingly disposed of. No

costs.

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JUSTICE R. SUBHASH REDDY.

February 02, 2007
MRR